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WEMMH PTO/SB/21 (09-04)

Approved for use through 7/31/2006. OMB 0651-0032

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

		Application Number	10/690,451
		Filing Date	October 21, 2003
		First Named Inventor	Michael C. SHERMAN et al.
		Group Art Unit	3732
		Examiner Name	Philogene, Pedro
Total Number of Pages in this Submission		Attorney Docket Number	4002-3274

ENCLOSURES (check all that apply)

<input type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance Communication to TC
<input type="checkbox"/> Fee Attached PTO-2038 Credit Card Form	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input type="checkbox"/> Amendment Response	<input type="checkbox"/> Petition	<input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> After Final	<input type="checkbox"/> Petition to Convert a Provisional Application	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Power of Attorney, Revocation, Change of Correspondence Address	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Terminal Disclaimer	<input checked="" type="checkbox"/> Return Receipt Postcard
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Request for Refund	<input type="checkbox"/> Other Enclosure(s) (please identify below):
<input checked="" type="checkbox"/> Information Disclosure Statement with copy of International Search Report PCT/US2004/034334 and 1 reference	<input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	
<input type="checkbox"/> Certified Copy of Priority Documents	Remarks	
<input type="checkbox"/> Response to Missing Parts/Incomplete Application		
<input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	Woodard, Emhardt, Moriarty, McNett & Henry LLP		
Signature			
Printed Name	Elizabeth A. Shuster		
Date	September 12, 2005	Reg. No.	52,672

CERTIFICATE OF TRANSMISSION - EXPRESS MAIL

I hereby certify that this paper is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR Section 1.10 on the date indicated and is addressed to the Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450.

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Typed or printed name	Elizabeth A. Shuster	Date	September 12, 2005



9-13-05

FFW

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re patent application of:)
Michael C. SHERMAN et al.) Before the Examiner
Application No. 10/690,451) Pedro Philogene
Filed October 21, 2003) Group Art Unit
DYNAMIZABLE ORTHOPEDIC) 3732
IMPLANTS AND THEIR USE IN)
TREATING BONE DEFECTS) September 12, 2005

I hereby certify that this paper is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR Section 1.10 on the date indicated and is addressed to the Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450.
EV 466814593 US
Express Mail Label No.
September 12, 2005
Date of Deposit
Elizabeth A. Shuster
Name
<i>Elizabeth Shuster</i>
Signature
September 12, 2005
Date of Signature

SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

Mail Stop Amendment
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

1. List of All Patents, Publications, U.S. Applications, or Other Information

Pursuant to the provisions of 37 CFR 1.56, 1.97, and 1.98, Applicant requests consideration of the references listed on the attached PTO/SB/08 form(s) (commonly referred to as a PTO-1449 form) and/or the additional information identified below.

2. Enclosed Legible Copies

- a. A legible copy of each foreign patent document and publication listed on the PTO/SB/08 form is enclosed,
- i. except, a copy is not provided for each reference previously cited by or submitted to the Patent Office in prior U.S. Patent Application Serial No. _____, filed _____ from which the present application claims priority under 35 U.S.C. §120.
- ii. except, a copy is not provided for each cumulative reference and enclosed reference identified below:
- b. A copy of the specification and drawings for each cited unpublished U.S. application.
- c. A copy of a Search Report or Written Opinion from a foreign patent office is also enclosed.
- d. Consideration of the enclosed additional and/or below discussed information is requested.

3. Concise Explanation of Relevance for Non-English Language Information

For each non-English language reference listed on the attached SB/08 form(s), reference is made to:

- 3a. an English language translation submitted herewith,
- 3b. foreign patent office Search Report (in the English language) submitted herewith,
- 3c. an English language translation of a foreign patent office Search Report submitted herewith,
- 3d. the concise explanation contained in the present application at page(s) _____,
- 3e. the concise explanation set forth in the attached English language abstract,
- 3f. a copy of a related patent publication (in the English language) submitted herewith,

Foreign Patent Document	Corresponding English Language Patent Document
DE 200 01 879	Abstract

- 3g. the following concise explanation:

4. Time for Filing

- 4a. This Information Disclosure Statement is submitted:
 - i. for U.S. national applications or national stage PCT applications (not including CPAs and RCEs), within 3 months of filing or entry into national stage; or
 - ii. for U.S. national applications, national stage PCT applications, CPAs or RCEs, before the first Office Action on the merits,

and thus no certification and/or fee is required.

- 4b. This information Disclosure Statement is submitted after three months from the filing date and after the first Office Action on the merits, but prior to the mailing date of a final Office Action or Notice of Allowance, and thus:
 - i. the statement specified in 37 CFR §1.97(e) is provided below, or
 - ii. a fee of \$_____ (set forth in 37 CFR §1.17(p)) is enclosed.
- 4c. This Information Disclosure Statement is submitted after the mailing date of a final Office Action or Notice of Allowance and prior to payment of the issue fee, and thus:
 - i. the statement specified in 37 CFR §1.97(e) is provided below, and a fee of \$_____ (set forth in 37 CFR §1.17(p)) is enclosed, or

- ii. a Request for Continued Examination (RCE) and fee of 37 CFR §1.17(e) has been filed.
- 4d. This Information Disclosure Statement is submitted after payment of the issue fee, and thus:
 - i. a Petition to Withdraw from Issue pursuant to 37 CFR §1.313(c)(2) has been filed, and
 - ii. a Request for Continued Examination (RCE) and fee of 37 CFR §1.17(e) has been filed.

5. Certification- Statement Under 37 CFR 1.97(e)

- 5a. It is hereby certified that each item of information contained in this Information Disclosure Statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this Information Disclosure Statement.
- 5b. A copy of a dated communication from a foreign patent office which clearly shows the statement is being submitted within three (3) months of the date on the communication is enclosed.
- 5c. It is hereby certified that no item of information contained in this Information Disclosure Statement was cited in a communication from a foreign patent office in a counterpart foreign application and, to my knowledge after making reasonable inquiry, no item of information contained in this Information Disclosure Statement was known to any individual designated in §1.56(c) more than three months prior to the filing of this Information Disclosure Statement.

The filing of this Information Disclosure Statement shall not be construed as an admission that the information cited is, or is considered to be, material to patentability as defined in §1.56(b). It is believed that no additional fees are required. Should any other fee be required, however, please charge such fee to Deposit Account No. 23-3030, but not to include any payment of issue fees.

Respectfully submitted,

By: 
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WEMMH PTO/SB/08a (08-03)

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U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

Complete if Known

Substitute for form 1449A/PTO INFORMATION DISCLOSURE STATEMENT BY APPLICANT <i>(use as many sheets as necessary)</i>				Application Number	10/690,451
				Filing Date	October 21, 2003
				First Named Inventor	Michael C. SHERMAN et al.
				Group Art Unit	3732
				Examiner Name	Unassigned
Sheet	1	of	1	Attorney Docket No.	4002-3274

U.S. PATENT DOCUMENTS

Examiner Initials*	Cite No. ¹	Document Number Number-Kind Code ² (If known)	Publication Date MM-DD-YYYY	Name of Patentee or Application of Cited Document	Pages, Columns, Lines where Relevant Passages or Relevant Figures Appear
		US- 4,338,926	07-13-1982	Kummer et al.	
		US- 6,293,949	09-25-2001	Justis et al.	
		US- 2003/191470 A1	10-09-2003	Ritland	
		US- 6,605,090	08-12-2003	Trieu et al.	
		US- 5,824,088	10-20-1998	Kirsch et al.	

FOREIGN PATENT DOCUMENTS

Examiner Initials*	Cite No. ¹	Foreign Patent Document Country Code ³ -Number ⁴ -Kind Code ⁵ (if known)	Publication Date MM-DD-YYYY	Name of Patentee or Application of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	T ⁶
		DE 200 01 879 U1	03-30-2000	Aesculap AG & Co.		<input type="checkbox"/>
						<input type="checkbox"/>

Examiner Signature	Date Considered
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EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

¹Applicant's unique citation designation number (optional). ² See Kinds Codes of USPTO Patent Documents at www.uspto.gov or MPEP 901.04. ³ Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). ⁴ For Japanese patent documents, the indication of the year of the reign of the emperor must precede the serial number of the patent document. ⁵ Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST.16 if possible. ⁶ Applicant is to place a check mark here if English language Translation is attached.